

**VARIANCE or APPEAL APPLICATION****WESTPORT ZONING BOARD OF APPEALS****INSTRUCTIONS:**

Applicant must complete pages 1 and 2. Staff will complete page 3.

Applicant must review and collect all materials listed on pages 4 and 5.

Applicant must bring all materials to Staff Check: M W F 9 -11:30 to Rm 203.

**FOR OFFICE USE ONLY**

Application#: \_\_\_\_\_

Date: \_\_\_\_\_

Fee: \_\_\_\_\_

1. Property Address: \_\_\_\_\_
2. Applicant's Name: \_\_\_\_\_ E-Mail: \_\_\_\_\_  
Applicant's Address: \_\_\_\_\_ Daytime Tel: \_\_\_\_\_
3. Owner's Name: \_\_\_\_\_  
Owner's Address: \_\_\_\_\_ Daytime Tel: \_\_\_\_\_
4. Is property within 500' of any adjoining municipality? Yes ☐ No ☐
5. Is property on Septic: ☐ or Sewer: ☐
6. Does this property contain 25% Steep Slopes / Contours? Yes ☐ No ☐
7. Does this property contain Wetlands or Watercourses? Yes ☐ No ☐
8. Does this project involve the demolition of any structures that are 50 years old or more? Yes ☐ No ☐
9. Briefly Describe your Proposed Project: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Will any part of any structures be demolished? Yes ☐ No ☐ If Yes, Describe or attach Demolition Plan:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. List the specific sections of the Zoning Regs which you are seeking a variance of: *i.e. Sec 6-2 (set backs)*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. Identify any other issues that may need to be reviewed & approved by ZBA: *i.e. Sec 11-6 (coverage) for existing shed*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
13. List the hardship(s) or reason(s) why this variance or appeal should be granted, stating clearly the exceptional difficulty of your property. **(Note: Financial hardship will NOT warrant a variance approval.)** *(see page 6)*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby certify that the above information is correct and that the accompanying exhibits attached are true.

\_\_\_\_\_  
Applicant's signature *(If different than owner)*\_\_\_\_\_  
Owner's signature *(Must be signed)**If the applicant is unable to obtain the signature of the property owner, a letter of authorization by the property owner must be submitted.*

# PLAN REVIEW

## ZBA VARIANCE

Page 2 of 7

### PAGE 2: TO BE COMPLETED BY OWNER/ APPLICANT

After the Applicant has collected ALL required materials listed on pgs 4 and 5, bring all materials along with the completed ZBA Application Form to Room 203 on Mon, Wed or Fri 9:00am – 11:30 am for a Staff review.

BUILDING PLANS (TITLE) \_\_\_\_\_

BY: \_\_\_\_\_ DATE \_\_\_\_\_ NUMBER of PGS. \_\_\_\_\_

REVISED DATE \_\_\_\_\_ NUMBER of PGS. \_\_\_\_\_

SURVEY OR SITE PLAN (TITLE) \_\_\_\_\_

BY: \_\_\_\_\_ DATE \_\_\_\_\_ NUMBER of PGS. \_\_\_\_\_

REVISED DATE \_\_\_\_\_ NUMBER of PGS. \_\_\_\_\_

GROSS LOT AREA: \_\_\_\_\_ NET LOT AREA: (less 80% wetlands or steep slopes): \_\_\_\_\_

#### **SETBACKS: Front / Side / Rear) (From Survey)**

Existing: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Required: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Proposed: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

#### **FLOOR AREA / FAR (COMMERCIAL BLDG):**

Existing: \_\_\_\_\_

Allowed: \_\_\_\_\_

Proposed: \_\_\_\_\_

#### **COVERAGE: Building / Total (From Survey)**

Existing: \_\_\_\_\_ / \_\_\_\_\_

Required: \_\_\_\_\_ / \_\_\_\_\_

Proposed: \_\_\_\_\_ / \_\_\_\_\_

#### **PARKING (COMMERCIAL SITE):**

Existing: \_\_\_\_\_

Required: \_\_\_\_\_

Proposed: \_\_\_\_\_

#### **HEIGHT In Feet / # of Stories**

Existing: \_\_\_\_\_ / \_\_\_\_\_

Required: \_\_\_\_\_ / \_\_\_\_\_

Proposed: \_\_\_\_\_ / \_\_\_\_\_

#### **SIGNS (COMMERCIAL SITE):**

Existing: \_\_\_\_\_

Required: \_\_\_\_\_

Proposed: \_\_\_\_\_

#### **Attic / Half Story**

Existing: \_\_\_\_\_ / Proposed: \_\_\_\_\_

#### **Crawl Space - Cellar - Basement**

Existing: \_\_\_\_\_ / Proposed: \_\_\_\_\_

ALL NECESSARY DEPT. APPROVALS (CONSERVATION DEPT/COMMISSION, FLOOD BOARD, & HEALTH) MUST BE SUBMITTED NO LESS THAN TWO WEEKS PRIOR TO THE SCHEDULED HEARING DATE.

**DISCLAIMER:** The P & Z Staff is reviewing the application materials submitted for completeness, however it is ultimately the applicant's responsibility to ensure the accuracy and completeness of the application.

**Applicant's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

# **STAFF CHECK**

## ZBA VARIANCE

### **PAGE 3 TO BE COMPLETED BY P&Z STAFF MEMBER**

**ADDRESS OF PROPERTY:** \_\_\_\_\_

**PID#:** (9 Digits) \_\_\_\_\_ **ZONE:** \_\_\_\_\_

**PROJECT DESCRIPTION** *by applicant is listed on page one.*

**Flood Zone/ Elevation:** \_\_\_\_\_ **Proposed Floor Elevation:** \_\_\_\_\_

Is property in CAM? Yes ☐ No ☐ Is CAM Site Plan Required? Yes ☐ No ☐ Cite Sections: \_\_\_\_\_

P&Z Site Plan or Special Permit Application Required? Yes ☐ No ☐

#### **TRANSMITTALS REQUESTING PROJECT REVIEW NEED TO BE SENT TO THE FOLLOWING:**

- |   |  |
|---|--|
| <input type="checkbox"/> ARB - Architectural Review Bd.     | <input type="checkbox"/> GBRPA                   |
| <input type="checkbox"/> Building                           | <input type="checkbox"/> Health                  |
| <input type="checkbox"/> Conservation                       | <input type="checkbox"/> Historic District Comm. |
| <input type="checkbox"/> DEP - OLISP (under separate cover) | <input type="checkbox"/> Parks & Recreation      |
| <input type="checkbox"/> Engineering                        | <input type="checkbox"/> Police                  |
| <input type="checkbox"/> Fire                               | <input type="checkbox"/> SWRPA                   |
| <input type="checkbox"/> Flood & Erosion Control Board      | <input type="checkbox"/> Town Attorney           |
|   | <input type="checkbox"/> Tree Warden             |

List the specific sections of the Zoning Regs which they are seeking a variance of: *i.e. Sec 6-2 (set backs)*

**Note:** CHECK FOR CONSISTENCY WITH *item # 11* ON APPLICATION FORM

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**Notes:** \_\_\_\_\_

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**Name of P&Z Staff member:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Office use only

- ☐ ZBA Application. # \_\_\_\_\_
- ☐ Submission Date \_\_\_\_\_
- ☐ Date of Hearing \_\_\_\_\_

## **ZBA APPLICATION PROCEDURE & REQUIREMENTS CHECK LIST**

### **WESTPORT ZONING BOARD OF APPEALS**

All Applications for a Variance and/or Notice of Appeal shall be prepared on the Official Form adopted by the Board for that purpose, which are available in the Zoning Board of Appeals office:

Filing Place: Office of the Zoning Board of Appeals – Town Hall Room 203  
 Time: During office hours, Mon, Wed & Fri = 8:30 A.M. - 3:00 P.M. Tues & Thurs = 8:30 A.M. - 4:30 P.M.

<b>Fees</b>	<b>Conditional Permits \$110.00</b>	<b>No fee for Appeals of ZEO Decisions</b>
<b>Circle one:</b>	<b>Residential Uses \$260.00</b>	<b>Commercial \$460.00</b>
		<b>Signs \$210.00</b>
	<b>State fee \$ 60.00</b>	<b>(State fee has been included in all above fees) STATE ACT 92-235</b>

#### **APPLICATION MUST BE ACCOMPANIED BY:**

- ☐ **1. APPLICATION FEE** - Please make checks payable to **Town of Westport**, per the above schedule.
- ☐ **2. EXISTING CONDITIONS SURVEY - ( 2 original copies, signed and sealed by the surveyor)**, copies certified substantially correct as a class A-2 survey, by a registered Land Surveyor, drawn to scale with property address, setback lines, existing coverage and dimensions of lot.
- ☐ **3. PROPOSED PLOT PLAN/SURVEY - ( 9 copies)** - drawn to scale, prepared and sealed by an engineer or surveyor based on a Class A-2 survey, showing the following as of the date of the application:
  - ☐ Dimensions of present lot, area, yard and any proposed changes.
  - ☐ Size and location of all existing buildings, structures, A/C condenser units and generators.
  - ☐ Size and location of all proposed buildings, structures or additions.
  - ☐ Location of all water courses, areas subject to flooding, stone walls, driveways and parking areas, easements and such other information as may be necessary to clearly define a question involved.
  - ☐ Setbacks and lot coverage of all buildings, structures, A/C condenser units & generators (existing and proposed).
  - ☐ Existing and proposed contours, site elevations and floor elevations.
  - ☐ The proposed survey should show only the proposed conditions and should not include any existing buildings, portions of buildings or structures that are being removed.
- ☐ **4. PROPOSED BUILDING PLANS - ( 9 copies)** - If you are constructing a new building, or if an addition or alteration is connected to or involved with an existing building, **EXISTING FLOOR PLANS AND BUILDING ELEVATIONS (all four) MUST BE SUBMITTED** with your application, along with the **PROPOSED FLOOR PLANS AND BUILDING ELEVATIONS (all four), CLEARLY LABELED. All plans must be drawn to scale. A DEMOLITION PLAN MUST BE SUBMITTED** clearly indicating where walls, roofs, foundations, and windows will be removed or demolished in both an elevation and footprint view. All building plans must be drawn to scale showing dimensions of additions and building height. An attic plan may be required if height of structure is in question. ***The structure cannot be demolished unless it has been specifically requested on this application***
- ☐ **5. HISTORIC - Demolition of structures 50 years and older** - Any variance application which proposes demolition of a structure greater than 50 years of age will be referred to the Historic District Commission for their review.
- ☐ **6. SIGNAGE** – Applications for signage need to include nine (9) copies of the sign sketch, drawn to scale. Also needed for a wall sign, are nine (9) copies of a façade scaled sketch showing the proposed signage. An application for a free standing sign needs to include nine (9) copies of the site plan showing the location of the proposed sign. All signage applications will require review by the Architectural Review Board (ARB).
- ☐ **7. ARCHITECTURAL REVIEW BOARD** - Commercial properties will be referred to ARB for their review. The ARB is advisory board ONLY. ☐ If you require ARB review due to facade changes or signage, you must submit an application to ARB. You may obtain the "Appearances before the ARB" hand-out available at the P&Z office.

- ☐ **8. ASSESSOR'S CARD - You must submit 1 copy of the Assessor's Card** for the subject property; you can obtain it from the Assessor's Office, Room 104.
- ☐ **9. ASSESSOR'S MAP - You need to submit the Assessor's Map for the subject property with your application.** The map should indicate the perimeter circle of 250' or 500' and the adjacent lots within the circle, depending on the zone of the property. Res. **AA** and **AAA** zones use a **500'** perimeter circle. Res. **A** and **all other Zones** use a **250'** perimeter circle. The Staff can provide you with the map.
- ☐ **10. NOTIFICATION – You will need to prepare a Notification Letter (sample attached) and mail it to the property owners that are on your list, after you have submitted your variance application. Please follow these steps:**

**To prepare your Notification Letter:**

- ☐ Staff can provide you with a list of the property owners in your circle. You will need to confirm the mailing addresses for each property owner on list have not changed by going to the Assessor's Office – Rm 104.
- ☐ You will need to prepare the **Notification Letter (see sample letter attached you can fill in the blanks) and prepare a stamped envelope addressed & add postage stamp to each property owner** to their mailing address on your list. Stuff a copy of your Notice Letter into each envelope. MAIL AFTER application submitted.
- ☐ You will mail the **Notification Letter** at the Post Office by using the Post Office Form #3877 for a "Certificate of Mailing" (not certified mail) after you submit application. Staff can provide this form or get from Post Office.
- ☐ After you have mailed all of your Notice Letters, the Post Office **will stamp the Certificate of Mailing Form. You MUST then bring that stamped form back to this office ASAP or your Application can NOT be put on the Legal Notice which will cause it to be moved to next hearing date.** Also bring a sample copy of one of the Notification Letters that you sent. **DO NOT mail until after application is submitted. DO mail the envelopes within 48 hours of application submission. Premature or late mailings may require that you repeat the mailing process because the neighbors will have been notified but, the application will not be in our office for public to review.**
- ☐ A legal Notice of Public Hearing for the application will be published twice in a local newspaper on the two Wednesdays preceding the hearing date.
- ☐ **11. OWNERS WRITTEN AUTHORIZATION** is required when the application is presented by an agent or an attorney at law. ***If the owner listed on the Assessor's Card (item #9 above), differs from the owner listed on ZBA application, proof of ownership must be provided.***
- ☐ **12. COASTAL SITE PLAN APPLICATION - If the proposed project requires a CAM Site Plan,** you must also submit a **COASTAL SITE PLAN APPLICATION (See Sec. 31-10)** along with this variance application. Ask Staff for the CAM Application Review Form.
- ☐ **13. STAFF CHECK REVIEW REQUIREMENT-** Once you have compiled all required materials for your application, bring everything to Walk In hours P&Z office on Mon, Wed or Fri between 9 - 11:30am. You will then sign in for a Staff Check Review. **Be sure you completed pages 1 & 2 of the ZBA Application Form** before you come in. Staff will complete page 3. **Important Note: Inform Staff and indicate on application if demolition is to take place as part of your project. Applications can only be submitted after the Staff Review is completed.**
- ☐ **14. SITE VISITS -** Be advised; the ZBA members and/or staff may carry out informal site visits to the subject property. These visits may take place during the two week period prior to your scheduled ZBA Hearing.

**NO APPLICATION WILL BE ACCEPTED UNTIL IT IS COMPLETED WITH ALL DOCUMENTATION AS SPECIFIED ABOVE.**  
***Per Sec. 46-4 of the Zoning Regs "Variances are granted in accordance with specific plans approved by ZBA."***

**MODIFICATIONS:** Any modifications to materials must be submitted at least **14 days prior to the scheduled ZBA hearing date.**

The Board, in its discretion, may dismiss an appeal (*without prejudice*) for failure to comply with any of its application requirements. **You may ensure that all necessary documentation is included, by reviewing your application with the ZBA/P&Z office staff prior to their staff review at the time of filing.** ZBA Hearings are usually held on the second and fourth Tuesday of each month in Town Hall, 110 Myrtle Ave, at 7:30 p.m.

## **HARDSHIP**

### **WHAT IS LEGALLY REQUIRED?**

#### *ZONING BOARD OF APPEALS (ZBA)*

To determine and vary the application of the zoning regulations, but only in harmony with the general purpose and intent of the regulations *and* only with respect to a parcel of land having unusual conditions, not generally encountered within the zoning district, which would make development in full accordance with the regulations extremely difficult. In legal terms, the conditions must be such as to cause “exceptional difficulty or unusual hardship.”

Variances of the zoning regulations may be granted only “in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions *especially affecting such parcel but not affecting generally the district* in which it is situated, a literal enforcement of such bylaws, ordinances or regulations would result in *exceptional difficulty or unusual hardship* so that substantial justice will be done and the public safety and welfare secured.”

The courts have strictly interpreted the variance requirements set forth in C.G.S. Section 8-6, and they have sustained several appeals from decisions in which variances were improperly granted. Financial considerations are rarely a valid reason for issuing a variance; the possible economic advantage to the landowner is not sufficient. In addition, the fact that the proposed use will not be detrimental, and may even be beneficial, to the neighborhood is not sufficient. **The hardship must arise from the operation of the regulations on the *land*, not on the landowner, and the land must be “*peculiarly disadvantaged*” by the regulation for which a variance is sought.**

## **ZBA HEARING PROCESS**

1. Verify your hearing date with Staff.

2. Arrive promptly at 7:30.

### **WHEN YOUR CASE IS ANNOUNCED AT THE HEARING BE SURE TO DO THE FOLLOWING:**

3. Proceed to the podium.

4. Speak directly into the microphone & state your full name and address.

5. State your interest in the property: (Owner, Agent or Attorney, etc.)

6. As briefly as possible, explain what you perceive your property hardship is and describe what your proposed project is.

7. Offer to answer questions from Board members and wait for the final discussion.

# Notice Letter

Date \_\_\_\_\_

## ***To whom it may concern:***

Notice is hereby given that \_\_\_\_\_ has filed a \_\_\_\_\_  
( Print Your Full Name ) ( List Type of Application )

for \_\_\_\_\_  
(Complete Description of Project )

with the Town of Westport / Zoning Board of Appeals

for approval for \_\_\_\_\_  
( Address of Property )

The public hearing for this ZBA Application will be scheduled at the discretion of the ZBA Commission. A Legal Notice of the Public Hearing for this application will be published twice prior to the public hearing in a local newspaper.

If you wish to view the details concerning this ZBA Application visit the ZBA/ P&Z office in the Town Hall Room 203, 110 Myrtle Ave, Westport, CT 06880. Office hours: Mon, Wed & Fri 8:30 – 3:00  
Tues & Thurs 8:30 – 4:30.

### For future reference:

If you wish to receive E-mail Notifications of future hearings by e-mail, follow these directions:

1. Go to Town of Westport's Website at **www.westportct.gov**
2. Click: **"Sign up for e-Notification"** (located in the left tool bar 1<sup>st</sup> item.)
3. Enter your E-mail Address twice as requested.
4. Under **"Calendar"** place a check in front of each *Board/ Committee/ Category* you want to receive an E-mail Notification for.
5. Enter the security verification code, as requested.
6. Click: Subscribe.

Thank you,

\_\_\_\_\_  
(Print Your Name)